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PRE-APPEAL BRIEF REQUEST FOR REVIEWDocket Number (Optional)
29250-002013/US

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Application Number
10/786,454Filed
February 26, 2004First Named Inventor
Sarvar PATEL et al.

On _____

Art Unit
2439Examiner
Roderick Tolentino

Signature _____

Typed or printed name _____

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)☐ attorney or agent of record.
Registration number _____☒ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 35,416

JHAJ Reg. No. 64,371
Signature

for Gary D. Yacura
Typed or printed name

703-668-8000
Telephone number

December 1, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/786,454 Group Art Unit: 2439

Filing Date: February 26, 2004 Examiner: Roderick Tolentino

Applicant: Sarvar PATEL et al.

Title: METHOD OF GENERATING A CRYPTOSYNC

Attorney Docket: 29250-002013/US

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Date: December 1, 2010

Mail Stop AF

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicants hereby request review of the July 1, 2010 Final Rejection of this application. A Notice of Appeal and fee in the amount of \$540.00 is filed concurrently herewith. A Petition for Extension of Time and fee in the amount of \$490 is filed concurrently herewith. The Commissioner is also authorized to charge any additional fee or credit any overpayment associated with this communication to Deposit Account No. 08-0750.

REMARKS

Claims 1-24 are currently pending in the present application. Claims 1 and 24 are independent claims. Claims 1 and 24 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 7,275,155 to Aull ("Aull") in view of U.S. Patent Publication 2004/0078334 to Malcolm et al. ("Malcolm"). Claims 2-23 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over Aull in view of Malcolm in further view of U.S. Patent 6,980,658 to Rezaiifar et al. ("Rezaiifar").

Appellants seek the panel's review of the rejection of the claims due to legal and factual deficiencies in the outstanding Office Action.

Legal/ Factual Deficiencies:

A *prima facie* case of obviousness has not been established with respect to any of claims 1-24.

Claims 1 and 24

Claim 1 recites "deriving, at a network element, a value of a first cryptosync for the communication session based on a value of a second cryptosync, the first cryptosync having a life limited to the communication session, the communication session being defined as a period of time a channel for communication exists between the two communication devices, the second cryptosync having a life extending over multiple communication sessions". Accordingly, the limitations of claim 1 require a first cryptosync having a life limited to a communications session and a second cryptosync having life extending over multiple communications sessions. Applicants respectfully submit, the Examiner has not identified how the recited first and second cryptosyncs are taught or rendered obvious by any of the cited art, as is required to establish a *prima facie* case of obviousness.

With respect to the first and second cryptosyncs recited in claim 1, the Examiner initially references first and second digital certificates discussed in column 2, lines 63-67 of Aull. In the aforementioned passage, Aull teaches replacing a first, expiring, certificate with a second certificate. Applicants note, on pages 2 and 3 of the final Office Action, the Examiner asserts Aull teaches the second digital certificate replacing an "expiring but NOT expired" first digital certificate. Accordingly, Applicants assume the Examiner is interpreting the first digital certificate as corresponding to the

recited second cryptosync having a life extending over multiple communications sessions. However, the Examiner does not identify what in Aull he considers to be the life of a communications session. Further, if the first digital certificate of Aull is considered as having a life extending over multiple communications session, the Examiner has not identified in Aull, or any other reference, any element corresponding to the recited first cryptosync which has a life **limited to the communication session** as the limitations of claim 1 require. For at least this reason, Applicants respectfully submit the Examiner has not identified how each of the limitations of claim 1 are taught or rendered obvious by the cited art as is required to support a *prima facie* case of obviousness.

Further, the Examiner admits Aull fails to teach “deriving, at a network element, a value of a first cryptosync for the communication session based on a value of a second cryptosync, the first cryptosync” as claim 1 recites. With respect to this limitation, the Examiner references Malcolm. With respect to the first and second cryptosyncs recited in claim 1, the Examiner references a digital certificate and a root certificate, from which the digital certificate may be derived, discussed in paragraph [0145] of Malcolm. Accordingly, Applicants assume the Examiner considers the digital certificate and root certificate of Malcolm as corresponding to the recited first and second cryptosync, respectively. However, Applicants respectfully submit the first and second cryptosyncs recited in claim 1 cannot be read upon the digital certificate and root certificate of Malcolm at least because nothing in Malcolm teaches limiting the derived digital certificate to a communication session while using a root certificate for multiple communications sessions as the limitations of claim 1 require of the recited first and second cryptosyncs, respectively. For at least this additional reason, Applicants respectfully submit the Examiner has not identified how each of the limitations of claim 1 are taught or rendered obvious by the cited art as is required to support a *prima facie* case of obviousness. Claim 24 includes limitations similar to those discussed above with respect to claim 1. Accordingly, for at least the reasons discussed above, Applicants respectfully submit a *prima facie* case of obviousness has not been established with respect to either of claims 1 and 24, as is required to support a rejection under §103.

For at least these reasons Applicants request reconsideration of the rejection of claims 1 and 24 under 35 U.S.C. §103.

Claims 6, 7, and 8

Claims 6, 7 and 8 each depend from claim 1 and, together, further define the process by which the first cryptosync is derived from the second cryptosync as including the concatenation of bits of the second cryptosync with a fixed bit sequence. Applicants respectfully submit the Examiner does not identify how this feature is taught or rendered obvious in any of the cited art alone or in combination.

Specifically, with respect to these claims, the Examiner references column 4, lines 42-62 of Rezaiifar which discuss a process of forming a crypto-sync using the four least significant bits of a sequence value. However the Examiner identifies nothing in Rezaiifar corresponding to the second cryptosync from which the first cryptosync is derived as the limitations of claims 6-8 require. Consequently, the Examiner has not explained how the second cryptosync recited in claims 6-8 is taught by any of the cited art. For at least this reason, Applicants respectfully submit a *prima facie* case of obviousness has not been established for any of claims 6-8.

Further, in particular, claim 8 recites "wherein the deriving step derives most significant bits of the first cryptosync as the portion of the second cryptosync and derives least significant bits of the first cryptosync as the fixed bit sequence". Accordingly, claim 8 requires the recited first cryptosync to comprise bits of the second cryptosync as most significant bits of the first cryptosync **in addition to** a fixed bit sequence as the least significant bits of the first cryptosync. Applicants respectfully submit Rezaiifar does not teach this and the Examiner provides no argument for why these limitations would be obvious. Applicants note Rezaiifar teaches forming a crypto-sync based on four bits of a sequence number, and assume the Examiner is interpreting the crypto-sync and sequence number of Rezaiifar as corresponding to the first cryptosync and fixed bit sequence recited in claim 8, respectively. However, the Examiner identifies nothing in Rezaiifar corresponding the second cryptosync recited in claim 8.

Further, the Examiner does not explain how the crypto-sync and fixed bit sequence of Rezaiifar could be combined with the teachings of Aull and Malcolm to teach an element, corresponding to the recited second cryptosync, having bits that are used in combination with bits of the sequence value of Rezaiifar to create the crypto-sync of Rezaiifar, nor does the Examiner explain why such a combination would be obvious. Accordingly, The Examiner has not explained how Rezaifaar, or any of the other cited art, alone or in combination, teach or otherwise render obvious a first

crypto-sync formed based on **both** bits of a second cryptosync and bits of a fixed bit sequence, let alone a first cryptosync specifically having most significant bits based on a second cryptosync and least significant bits based on a fixed bit sequence as the limitations of claim 8 require. For at least this reason Applicants respectfully submit the Examiner has not provided a *prima facie* case of obviousness with respect to claim 8 as is required to support a rejection under §103.

Therefore, Applicants request reconsideration of the rejection of claims 6-8 under 35 U.S.C. §103.

CONCLUSION

Appellants respectfully requests that the Panel reconsider and withdraw of all the rejections of record, and allow the pending claims.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura, Reg. No. 35,416, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

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